

05-MC-05029-ORD

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RICHARD ROY SCOTT,

Plaintiff,

v.

MARK SELING, *et al.*,

Defendants.

No. MS05-5059

ORDER PERMITTING CASE TO PROCEED


This matter comes before the Court *sua sponte*. On April 5, 2005, the United States District Court judges who sit in Tacoma entered an order dismissing a number of plaintiff's causes of action and barring future litigation unless plaintiff provides a signed affidavit, along with the proposed complaint, "verifying under penalty of perjury that none of the issues raised in the proposed complaint have been litigated in the past by the plaintiff." On November 14, 2005, the Clerk of Court received a complaint and motion to proceed *in forma pauperis* from Mr. Scott. As directed in the bar order, the Clerk forwarded the documents to the undersigned for review.

Pursuant to the terms of the "Order Adopting Report and Recommendation," dated April 5, 2005, plaintiff has submitted a signed declaration verifying that none of the issues raised in the proposed complaint have been litigated in the past by the plaintiff. Upon review of plaintiff's declaration and the record in Scott v. Selig, C04-5823RBL, it appears that plaintiff

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1 voluntarily dismissed his complaint in C04-5823RJB effective February 3, 2005, more than two
2 months before the United States District Court judges who sit in Tacoma entered an order
3 purporting to dismiss the same action with prejudice. Giving plaintiff every benefit of the
4 ambiguities created by his withdrawal of C04-5823RJB following entry of the Temporary
5 Restraining Order but before the Report and Recommendation was written or adopted, the Court
6 finds that the issues raised in the above-captioned matter have not been finally resolved and may
7 proceed subject to the other requirements imposed by the "Order Adopting Report and
8 Recommendation," dated April 5, 2005.

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10 DATED this 17th day of November, 2005.

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13 Robert S. Lasnik
14 Chief Judge, United States District Court
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